

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES A. BROOKS,

Petitioner,

CIVIL ACTION NO. 04-74045

vs.

DISTRICT JUDGE PAUL BORMAN

DAVID GUNDY,

Respondent.

/

**ORDER (1) DENYING A CERTIFICATE OF APPEALABILITY, AND
(2) DENYING APPLICATION TO PROCEED IN FORMA PAUPERIS**

Petitioner filed a notice of appeal pursuant to 28 U.S.C. § 2255. In order to appeal the court's decision under § 2255, a certificate of appealability ("COA") must issue. *See* 28 U.S.C. § 2253(c)(1). Petitioner filed a Motion for Certificate of Appealability and an Application to Proceed *In Forma Pauperis* on January 13, 2006.

In the Court's December 1, 2005 Order denying Petitioner's Habeas Corpus petition, the Court explicitly declined to issue a certificate of appealability on any of Petitioner's claims, and denied Petitioner leave to proceed on appeal *in forma pauperis*. (Dec. 1, 2005 Order Denying Habeas Corpus Petition, 12-13) (Docket Entry 24).

Accordingly, **IT IS ORDERED** that Petitioner's Motion for Certificate of Appealability is DENIED;

IT IS FURTHER ORDERED that Petitioner's Application to Proceed *In Forma*

Pauperis is DENIED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: February 1, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on
February 1, 2006.

s/Jonie Parker
Case Manager